I negate and value morality, as ought implies a moral obligation.

Only ethical theories that appeal to practical rationality give agents a normative reason to act on moral statements. Other moral rules that appeal to an external standard not predicated on rational choice fail to guide action because agents can simply question why they ought to act morally. This implies that reason is a fact from which all obligation is derived. David Velleman[[1]](#footnote-1) explains:

As we have seen, **requirements that depend for their force on some external source of authority turn out to be escapable because the authority behind them can be questioned. We can ask, “why should I act on this desire?” or “why should I obey the** U.S. **government?” or** even “Why should I obey **God?”** And as we observed in the case of the desire to punch someone in the nose, **this question demands a reason for acting. The authority we are questioning would be vindicated, in each case, by the production of a sufficient reason.** What this observation suggests is that any purported source of practical authority depends on reasons for obeying it—and hence on the authority of reasons. Suppose, then, that we attempted to question the authority of reasons themselves, as we earlier questioned other authorities. Where we previously asked “Why should I act on my desire?” **let us now ask. “Why should I act for reasons?”** shouldn’t this question open up a route of escape from all requirements? As soon as we ask why we should act for reasons, however, we can hear something odd in our question. **To ask “why should I?” is to demand a reason; and so to ask “why should I act for reasons?” is to demand a reason for acting for reasons. This demand implicitly concedes** the very authority that it purports to question—namely, **the authority of reasons.** Why would we demand a reason if we didn’t envision acting for it? **If we** really **didn’t feel required to act for reasons, then a reason for doing so** certainly **wouldn’t help.** So **there is something self-defeating about asking for a reason to act for reasons.**

Additionally, to determine the stringency of duties derived from a maxim, all rational agents must be able to will the maxim, since there is no reason to reject a maxim for one person while making it sufficient to guide the actions of another. If ethics are based in rationality, any state of affairs or actor-specific concern is irrelevant because they don’t appeal to the practical reason of humans. This leaves only maxims that can be applied as universal law as action guiding for rational agents.

Denying individuals’ independent choice, or outer freedom, is rationally contradictory. Steven Engstrom[[2]](#footnote-2) writes,

Now on the interpretation we have been entertaining, **applying the formula of universal law involves considering whether it is possible for every subject** capable of practical judgment **to share the practical judgment asserting the goodness of every subject’s acting according to the maxim in question**. Thus in the present case the **application** of the formula **involves** considering **whether it is possible for every** such **subject to deem good every subjects acting to limit others’ outer freedom**, where practicable, with a view to **augmenting their own outer freedom.** Since here all subjects are on the one hand **deeming good both the limitation of others’ outer freedom and the extension of their own** outer freedom, **while** on the other hand, insofar as they agree with the similar judgments of others, **also determining good the limitation of their own outer freedom and the extension of others’** outer freedom, **they** are **all deem**ing **good both the extension and the limitation of both their own and others’ outer freedom. These judgments are inconsistent insofar as the extension of a person’s outer freedom is incompatible with the limitation of the same freedom.**

Ripstein[[3]](#footnote-3) explains the legitimate basis for contracts:

**Contract enables parties to transfer rights, so that one person is entitled to depend upon the specified deed of another.** If you and I make a contract, each of us agrees to confer a benefit upon the other, and each of us transfers the right to expect that benefit to the other. **We act interdependently and consensually.** Through our agreement, I do not acquire an external thing, but your deed.19 People may rely upon the behavior of others in a variety of ways; **contract** is distinctive because it **creates an entitlement: you can complain if I fail to perform, because I have failed to give you something to which you have a right.** Without a contract, you cannot complain if your expectations are frustrated. In the case of a contract, I do not possess you: I only have the use of your powers in the manner specified by the contract.20 As a rightful relation, contract also makes a distinctive type of wrong possible. **I wrong you if I deprive you of a means, my performance, to which I have given you a right.** Where you have a right to my performance, should I fail to perform, I thereby deprive you of something to which you have a right. Put slightly differently, the wrong consists in my failure to advance your ends in a way that you have a right to have me advance them. **That limits your external freedom, because you had a means toward some end, and I deprived you of it.** It is coercive for the same reason. Because I acquire your deed, I have a right in contract only against you. So **I have no right against a third person who does something that prevents you from performing your part of the contract**. I have only recourse against you (though you may have recourse against the third person). Again, although third parties may benefit from our completion of the contract, they have no rights in virtue of it. Precisely because contract is a way in which two of us may give each other rights, it has no bearing on the rights of anyone else; for the same reason, two persons may not enter into a contract to limit the rights of a third. Status The third category, which Kant calls "domestic right," has generated the most attention from commentators.21 I do not want to get drawn into those disputes, so I will begin by describing the category somewhat differently. The category of status is made up of those relationships in which people interact interdependently but not fully consensually. The best way to think about this category is by considering the more general role of consent in private right. **Consent** is significant from the standpoint of external freedom because it **can make otherwise wrongful acts rightful**. But those acts can be wrongful in two very different ways. Sometimes, consent makes an interaction rightful **because one person permits another to do something that would otherwise be an interference with his or her person or property.** I invite you to dinner at my home. Without my consent, you would be interfering with my property by consuming my food. Having invited you, I render what would have been wrongful rightful. Thus our **interaction is reciprocal** because bilateral. I invite, you accept. But consent does not only prevent that type of wrong. The other type of wrong that **it is able to right is the wrong of use,** which, from the standpoint of external freedom, we can understand as **forcing a person to act for an end that she does not share. If you permit me to use your dishes at the dinner party, my use of them to pursue my own ends is not wrongful,** for, by consenting to that use, you have made my use of your things one of your ends. **There is no interference with your external freedom. But** if I use you to pursue my ends in other ways, **without your consent, I** thereby **wrong you.** Suppose that I break into your home and eat dinner at your table while you are out. (I bring my own food, and clean up after myself.) I do not harm you in any way, but I help myself to a benefit to which I am not entitled. I use your property in pursuit of one of my own ends, an end that you do not share. In so doing, I wrong you. Of course, if you consent, I do you no wrong. But the wrong in question, the wrong that consent serves to make right, is depriving you of your freedom to be the one who sets the ends that you will pursue, or that will be pursued with your goods. I thereby also violate reciprocity, for I enlist you in support of ends you do not share in a way that you cannot enlist me in support of ends I do not share.This is particularly evident in cases of status, where the party who is incapable of consent is not in a position to enlist the other party in anything at all. I should perhaps pause at this point to remark that it is easy to be seduced by the idea of consent, and to suppose that it is a self-standing source of moral significance. This is certainly the view of many libertarians, for example. But I do not think that consent works that way at all. Consent can render rightful what would otherwise be wrongful, as between private parties. But we do not worry about the lack of consent except where we are concerned with an action that would be wrongful but for the presence of consent. So if you want to know what is wrong with exploitative relationships, say, it is not that they are nonconsensual. It is that they are exploitative. It is just that consent can make a relationship in which one person pursues the ends of another nonexploitative, precisely because the former has made the latter's ends her own. As we shall see, the fact that a wrongdoer does not consent to the redress to which his victim is entitled does not make that redress wrongful. Nor do we determine the nature of that redress by asking what the parties would have agreed to in advance. Instead, we need to ask what would right the wrong. I said earlier that for Kant the starting point for political philosophy concerns the ways in which people may be forced to treat each other. We are now in a position to see his answer to that first question. There are three limits on the ways in which people may treat each other. First, one person may not interfere with another's person or property without the latter's consent.Second, **where one has, through contract, transferred to another one's right to something, one must follow through on that transfer.** Third, one person may not enlist another in pursuit of his or her own ends without the latter's consent. **To violate any of these limits is to coerce the other person.**

Thus, the standard is consistency with agreements

Further prefer this standard because when creating an agreement I make a mutual commitment that I will follow through in exchange for your compliance. Thus once I receive your compliance I wrong you by not following through myself because I incur from you a benefit which I posited you had reason to follow and while incurring that deny that that same reason guides my action. This is thus inconsistent with practical reason.

I contend that treating juveniles as adults violates international agreements. Michelle Leighton[[4]](#footnote-4) writes:

**The U**nited **S**tates **ratified the ICCPR in 1992.** The Committee on Human Rights, **the oversight authority for the treaty, determined** in 2006 **that the U**nited **S**tates **is not in compliance with the treaty because it allows [life without parole]** LWOP **sentences for juvenile**s. The Committee made this determination even considering that the United States had taken a reservation to the treaty to allow the trying of juveniles in adult court in “exceptional circumstances.” **The** extraordinary **breadth and rapid development in the U**nited **S**tates **of sentencing child offenders to LWOP since** the United States’ **ratification** of the ICCPR **contradicts the assertion that** **the U**nited **S**tates **has applied this sentence only in exceptional circumstances.** In fact, the total number of children tried as adults and sentenced to LWOP now exceeds 2484, many of whom were first-time offenders. In evaluating the United States’ compliance with the treaty in 2006, the Committee on Human Rights found the United States to be out of compliance with its obligations. The Committee concluded that the United States’ practice of sentencing child offenders to LWOP violates article 24(l), which states, “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protec- tion as are required by his status as a minor.”The Committee expressed its grave concern “that the treatment of children as adults is not applied in exceptional circumstances only . . . . The Committee is of the view that sentencing children to life sentence without parole is of itself not in compliance with article 24(l) of the Covenant.” **The Committee Against Torture**, the official oversight body for the Convention Against Torture, Cruel, Inhuman or Degrading Treat- ment or Punishment, **to which the U**nited **S**tates **is a legal party, evaluated U**nited **S**tates’ **compliance** in 2006. **The committee commented that the life imprisonment of children “could constitute cruel, inhuman or degrading treatment or punishment,” in violation of the treaty.**

Moreover, the ICCPR requires movement towards a separate juvenile system. Roger Levesque[[5]](#footnote-5) writes:

Despite the long history of the notion of children's rights, the incorporation of children's rights into the juvenile justice system is a recent development. It was not until 1966, with the adoption of **the International Covenant on Civil and Political Rights** ("International Covenant"), that juveniles' rights in judicial proceedings made their first formal appearance. The International Covenant **urged states to separate juvenile offenders from their adult counterparts, speedily adjudicate claims, adopt different trial procedures for juveniles, consider the juvenile's age, and promote rehabilitation**. Although the protections afforded by the International Covenant are limited, these protections are still considerably revolutionary. At a minimum, **all nations that ratify the International Covenant must treat some juveniles differently from adults. In addition, ratifying nations must move toward implementing a separate juvenile justice system that includes rehabilitation.** Despite demonstrating the differing needs of youth from adults, the International Covenant essentially allows individual nation states the authority to determine the nature of the separate system and its requisite procedures.

Thus, by treating juveniles as adults, the U.S. is inconsistent with its international obligations.

1. David. Velleman. Self To Self. 2006. Cambridge University Press. [↑](#footnote-ref-1)
2. Engstrom. Universal Law as the Form of Practical Knowledge. 18. [↑](#footnote-ref-2)
3. Authority and Coercion. Philosophy and Public Affairs, Vol. 32, No. 1 (Winter, 2004), pp. 2-35. [↑](#footnote-ref-3)
4. Connie de la Vega and Michelle Leighton [Connie de la Vega is Professor of Law and Director of the Frank C. Newman International Human Rights Clinic, University of San Francisco School of Law. Michelle Leighton is Director of Human Rights Programs, Center for Law and Global Justice, University of San Francisco School of Law]“Sentencing Our Children to Die in Prison: Global Law and Practice” University of San Francisco Law Review, Vol. 42. Spring 2008. [↑](#footnote-ref-4)
5. Roger Levesque [Assistant Professor of Criminal Justice, Indiana University. J.D., Columbia University School of Law, 1993; Ph.D., University of Chicago, 1990] “Future Visions Of Juvenile Justice: Lessons From International And Comparative Law” 29 Creighton L. Rev. 1563, June 1996. [↑](#footnote-ref-5)